

Appl. No. 10/075,326
Atty. Docket No. CM2502
Amdt. dated May 2, 2006
Reply to Office Action of 2/9/06
Customer No. 27752

REMARKS/ARGUMENTS

Claims 1 and 4 are currently under consideration. Claim 1 has been amended to remove the "optionally" language and to incorporate the description of the opening, per Claim 10.

Claim 10 has been cancelled herewith as being redundant in view of the amendments to Claim 1.

It is submitted that the aforesaid amendments are fully supported and entry is requested.

Rejections Under 35 USC 112

Claims 1, 4 and 10 stand rejected under §112 in the use of the term "optionally." Since Claim 1 has been amended to remove this term, withdrawal of the rejection is requested.

Rejections Under 35 USC 103

Claims 1, 4 and 10 stand rejected over U.S. 5,971,153 in view of U.S. 5,022,216, for reasons of record at page 3 of the Office Action.

Applicant respectfully traverses the rejections on this basis, to the extent they may apply to the claims as now amended.

Previous arguments in support of patentability continue to apply, but will not be exhaustively repeated herein, for the sake of brevity.

It is submitted that the cited '153 and '216 documents, applied singly or in combination, do not constitute a *prima facie* case of obviousness against the claims as now amended.

As the Examiner is aware, to establish *prima facie* obviousness, all the claim limitations must be taught or suggested by the prior art. MPEP 2143.03 Moreover, even if all the aspects of the claimed invention were to be individually known in the art, this is still not sufficient to establish a *prima facie* case of obviousness. There must additionally be some objective reason to combine the teachings of the references before the burden to

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overcome the *prima facie* obviousness rejection moves to the Applicant. See, for example, MPEP 2143.02.

In the present application, it is submitted that all claim limitations are not taught or suggested by the cited '153 and '216, taken singly or in combination. See, for example, in Claim 1 the: trapezoidal shape; the size of the top wall vs. the bottom wall; the stated angles; the positioning of the dispensing opening; the extension of the opening; and the presence of the wipe holder. Since all these elements are not taught or suggested by the cited documents, it is submitted that a *prima facie* case of obviousness has not been made.

It is further submitted that there is no objective basis for combining the teachings of '216 with '153, in the manner suggested by the Examiner. Note that '216 relates to: Method and apparatus for making an easy open substantially rectangular bag . . . [Abstract; emphasis supplied]. Since nothing in '216 relates to containers having the shape parameters specified in Claim 1 herein, it cannot properly be combined with '153 to support a *prima facie* case of obviousness. MPEP 2143.02.

In light of the foregoing, withdrawal of the rejections and early and favorable action in the case are requested.

Respectfully submitted,

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